

AMENDED IN ASSEMBLY MAY 16, 2016

AMENDED IN ASSEMBLY APRIL 6, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2040

Introduced by Assembly Member Melendez

February 17, 2016

An act to add and repeal Section 17053.37 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 2040, as amended, Melendez. Outdoor Water Efficiency Act of 2016: personal income tax credits: outdoor water efficiency.

The Personal Income Tax Law allows various credits against the taxes imposed by that law.

This bill, for taxable years beginning on or after January 1, 2016, and before January 1, ~~2021~~, 2019, would allow a credit equal to 25% of the amount paid or incurred by a qualified taxpayer for water-efficiency improvements, as defined, on qualified real property in this state, as specified. The bill would limit the cumulative amount of the credit to \$2,500 for each qualified real property for all taxable years. *The bill would also require the amount of the credit to be multiplied by the tax credit adjustment factor, as specified.* The bill would require a qualified taxpayer to obtain and retain a certification of the water-efficiency improvements from the appropriate regional or local water agency after completion of the improvements and to provide a copy of this certification to the Franchise Tax Board upon request.

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) The 2014 water year, ending on September 30, was the third
- 4 driest based on the ~~119-year-long~~ *119-year-long* statewide
- 5 precipitation record.
- 6 (b) Temperatures in the first nine months of 2014 were a
- 7 record-breaking 4.1 degrees above the 20th century average across
- 8 the state.
- 9 (c) Responding to these unprecedented dry and hot conditions,
- 10 the United States Drought Monitor classified more than 80 percent
- 11 of California in an “extreme” drought condition, with 58 percent
- 12 of California in an “exceptional” drought, the highest condition.
- 13 (d) On January 17, 2014, the Governor called upon retail water
- 14 providers throughout California to reduce residential per capita
- 15 water use by 20 percent as compared to 2013 levels.
- 16 (e) Outdoor water use accounts for the highest percentage of
- 17 regional water use.
- 18 (f) Landscape design, installation, maintenance, and
- 19 management can and should be water efficient. The use of
- 20 water-efficient landscapes contributes to the state’s efforts to
- 21 increase the reliability of its water supplies.
- 22 (g) Californians can achieve ~~water-efficient~~ *water-efficient*
- 23 landscapes by installing a combination of drought-tolerant live
- 24 plants; warm season turf varieties, which require 25 percent less
- 25 water compared to cool season turf; soaker or drip-irrigation hoses;
- 26 a moisture control for a sprinkler or irrigation system; mulch and
- 27 soil; a rain barrel or an alternative rain and moisture collection
- 28 system; a permeable ground cover surface that allows water to
- 29 reach underground basins, aquifers, or water collection points;
- 30 plant and grass seeds coated with a water-saving surfactant; and
- 31 ~~a water-saving~~ *water-saving* surfactant.
- 32 (h) Municipalities and local water agencies are tasked with
- 33 enforcing water conservation ordinances to eliminate water waste
- 34 and restrict outdoor water use.

1 (i) It is the intent of the Legislature to provide an income tax
2 credit for the purchase of outdoor water use efficiency
3 improvements during the exceptional drought that California is
4 facing.

5 SEC. 2. Section 17053.37 is added to the Revenue and Taxation
6 Code, to read:

7 17053.37. (a) For each taxable year beginning on or after
8 January 1, 2016, and before January 1, ~~2021~~, 2019, there shall be
9 allowed as a credit against the “net tax,” as defined in Section
10 17039, an amount equal to 25 percent of the amount paid or
11 incurred during the taxable year by a qualified taxpayer for
12 water-efficiency improvements for outdoor landscapes on qualified
13 real property in this state.

14 (b) For each qualified real property, the credit allowed under
15 this section shall not cumulatively exceed two thousand five
16 hundred dollars (\$2,500) for all taxable years.

17 (c) (1) *The amount of the credit under this section shall be*
18 *multiplied by the tax credit adjustment factor for the taxable year.*

19 (2) *Unless otherwise specified in any budget measure, the tax*
20 *credit adjustment factor for a taxable year beginning on or after*
21 *January 1, 2016, shall be 0 percent.*

22 (3) *The tax credit authorized by this section shall only be*
23 *operative for taxable years for which resources are authorized in*
24 *any budget measure for the Franchise Tax Board to oversee and*
25 *audit returns associated with the credit.*

26 (e)

27 (d) For the purposes of this section, the following definitions
28 shall apply:

29 (1) “Qualified real property” means a principal residence of the
30 qualified taxpayer, within the meaning of Section 121 of the
31 Internal Revenue Code, relating to exclusion of gain from sale of
32 principal residence, in this state.

33 (2) “Qualified taxpayer” means the owner of any qualified real
34 ~~property.~~ *property whose income does not exceed 120 percent of*
35 *the area median income of the county in which he or she resides.*

36 (3) (A) “Water-efficiency improvements” means expenditures
37 voluntarily paid or incurred by the qualified taxpayer that are
38 certified by the appropriate regional or local water agency as
39 water-efficient improvements compatible with any of the following:

- 1 (i) A local water-efficient landscape ordinance of a regional or
- 2 local water agency adopted or in effect at the time the
- 3 improvements are made.
- 4 (ii) The state water-efficient landscape statutes adopted or in
- 5 effect at the time the improvements are made.
- 6 (iii) A water-efficient landscape program that is developed and
- 7 implemented by a regional or local water agency for the specific
- 8 purpose of reducing water use.
- 9 (B) “Water-efficiency improvements” do not include
- 10 improvements performed to bring landscaping into mandatory
- 11 compliance with a local water-efficient landscape ordinance or
- 12 state law.
- 13 ~~(d)~~
- 14 (e) A qualified taxpayer shall:
- 15 (1) Obtain certification of the water-efficiency improvements
- 16 from the appropriate regional or local water agency specified in
- 17 paragraph (3) of subdivision ~~(e)~~ (d) after completion of those
- 18 improvements.
- 19 (2) Retain a copy of the certification specified in paragraph (1)
- 20 and, upon request, provide a copy of that certification to the
- 21 Franchise Tax Board.
- 22 ~~(e)~~
- 23 (f) This credit shall be in lieu of any other credit or deduction
- 24 that the qualified taxpayer may otherwise claim pursuant to this
- 25 part with respect to the amounts paid or incurred for
- 26 water-efficiency improvements for outdoor landscapes on qualified
- 27 real property in this state.
- 28 ~~(f)~~
- 29 (g) In the case where the credit allowed under this section
- 30 exceeds the “net tax,” as defined by Section 17039, for a taxable
- 31 year, the excess credit may be carried over to reduce the “net tax”
- 32 in the following taxable year, and succeeding three taxable years,
- 33 if necessary, until the credit has been exhausted.
- 34 ~~(g)~~
- 35 (h) Section 41 does not apply to the credit allowed by this
- 36 section.
- 37 ~~(h)~~
- 38 (i) This section shall remain in effect until December 1, ~~2021,~~
- 39 ~~2019,~~ and as of that date is repealed.

1 SEC. 3. This act provides for a tax levy within the meaning
2 of Article IV of the Constitution and shall go into immediate effect.

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